GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: June 30, 2003

SUBJECT: BZA Application 17030 - Request filed by Holland & Knight LLP for one **special exception** and one **area variance** for the proposed construction of a 12-story apartment building, a mixed use residential and retail/arts building proposed by JBG/JER E Street, L.L.C. for property at 911 E Street, N.W.

APPLICATION
Application of JBG/JER E Street L.L.C. for:

1) **Special exception relief pursuant to §411.11 of Title 11 DCMR** from the strict application of the roof structure requirements; and
2) **A variance to §773 of Title 11 DCMR,** from the dimension requirements for residential recreation space,

for the proposed building at 911 E Street, N.W., Square 377, Lots 37, 42, 806 and 7000. The property is zoned DD/C-4, Central Business District with the Downtown Development District overlay.

SUMMARY RECOMMENDATION
The Office of Planning recommends approval of the requests for:

- Special Exception relief to waive the setback and single enclosure requirements relating to roof structures prescribed in §§ 411 and 770.6(b), and
- Variance from the dimension of the proposed recreation space not meeting the 25 feet width requirement of §773.7.

BZA
Case No. 17030
Exhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO. 17030
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BACKGROUND AND PROJECT DESCRIPTION

The subject property is located on the north side of E Street, between 9th and 10th Streets, N.W., and consists of Lots 37, 42, 806 and 7000 in Square 377. Square 377 is bounded by F Street to the north, 9th Street to the east, E Street to the south and 10th Street to the west. The site is currently improved with four, vacant retail buildings ranging from one to three stories and the air rights over the existing McDonald's facility at 911 E Street.

The applicant has proposed a mixed-use development of 3 historic buildings located at 915, 917 and 919 E Street N.W., as well as property located at 913 and 911 E Street. At its' April 27, 2000 public meeting, the Historic Preservation Review Board (HPRB) denied the applicant's request to partially demolish and subdivide the historic lots because it determined that the buildings still constituted contributing buildings in the Pennsylvania Avenue National Historic Site, and that issuance of either demolition or subdivision permits would not be consistent with the purposes of the Historic Landmark and Historic District Protection Act of 1978, as amended, D.C. Law 2-144, D.C. Code, Sec. 5-1001 *et seq.* (1999) (the Act). The applicant filed a request for a public hearing before the Mayor's Agent for Historic Preservation and the application was granted in his Order dated August 25, 2000 (**H.P.A. #00-332, -333, -334**). The Order provides for the developer, JBG, to preserve and restore the first twenty (20) feet of each of the historic buildings' facades and to incorporate the elements into the proposed mixed-use development. **http://www.ll.georgetown.edu/histpres/decisions/hpa00-332-334.html**

The proposed development includes a 110 foot-tall U shaped residential tower of 160 units, with approximately 70 below-grade parking spaces. Submitted plans show approximately 8,986 square feet of arts related space dedicated on the first floor with residential square footage at 135,420 square feet. Approximately 6,771 square feet of residential recreation space (an amount equal to at least five percent of the area devoted to residential gross floor area) includes a party room, fitness center, lounge, and outdoor courtyard and roof deck. Loading will be accessed from a garage entrance on E Street. Ground level retail (10,800 square feet) will be located along the E Street frontage and the project includes the preservation, maintenance and promotion of Booth's Alley for tourism purposes.

The special exception and variance are requested to allow for a reduction in the recreational space requirement, the position of the penthouse not meeting the 1:1 setback from the edge of the roof, stair access to the roof and to permit the construction of the building as proposed.

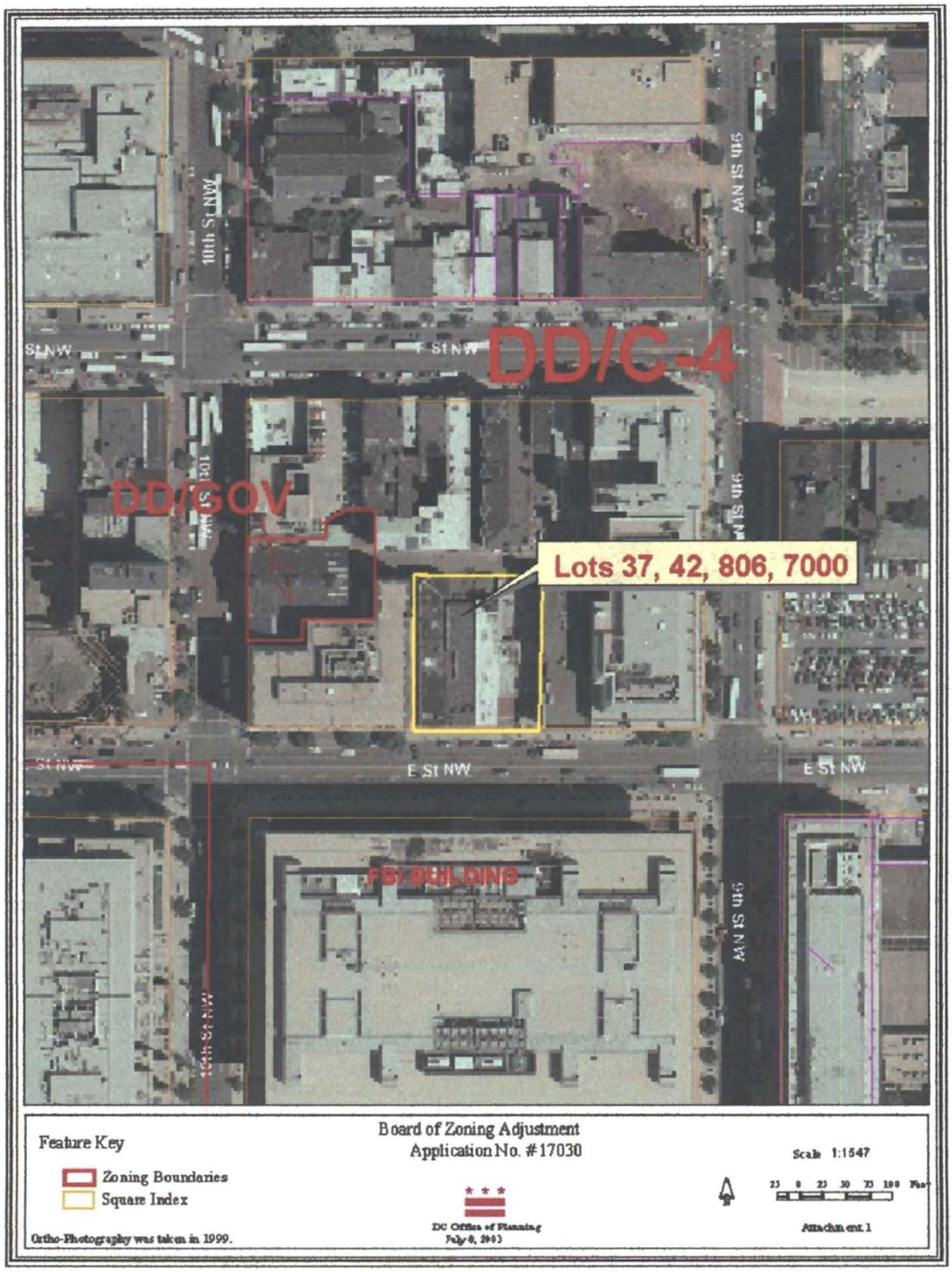
EXISTING ZONING

C-4 Central Business District

The C-4 district is the high density "business and retail heart of the District and includes a mix of employment, retail, office, cultural and entertainment centers."

DD Downtown Development District

"The purpose of the Downtown Development District is to help accomplish the land use and development policies of the Comprehensive Plan relating to the affected sectors of Downtown."



RELIEF REQUESTED:

Special Exception pursuant to 411.11 – Roof Structures
Section 411 sets forth the area, placement and density requirements for roof structures. Section 411.3 requires that all penthouse and mechanical equipment be placed in one enclosure and §411.5 requires that all enclosures be of equal height. The applicant has proposed a penthouse

structure and a separate stair enclosure on the roof of the building. The penthouse is 18.5 feet in height and the stair enclosure is proposed at 10 feet in height.

Section 411.11 allows for the Board of Zoning Adjustment to approve deviations to the requirement of §411 where "impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable..." provided that the intent and purpose of the Chapter and Title 11DCMR "shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely."

Increasing the height of the enclosure for the staircase to 18.5 feet will serve only to make the enclosure more visible. Connecting the two enclosures, to provide only one will interfere with the use of the recreation area, and create an even larger enclosure than proposed. In addition, to design the staircase and penthouse into one large structure would result in an impractical design that would be contrary to the purpose of providing "a reasonable degree of architectural control upon roof structures..." (§411.1). The primary penthouse is located toward the northwest corner of the roof in order to preserve the historic facades, create a courtyard for the required residential recreation space and create a workable interior layout. As a result, the penthouse is flush with the western edge of the building and set back only fifteen feet from the edge of the roof adjacent to the internal courtyard. The penthouse meets the set back requirements for the north, east, and south edges of the roof.

The stair enclosures, each with a height of ten feet, also cannot comply with the setback requirements. The western stair is set back four feet from the edge of the roof while the eastern stair is set back approximately five and one-half feet from the roof. The enclosures provide two means of ingress and egress from the roof deck and conform to the interior layout of the structure, including the central courtyard.

Light and air of adjacent buildings should not be adversely affected by the proposed roof structures, as the existing building to the east of the subject property is lower in height. Although the building to the west is of equal height, it will be separated from the subject property by an alley, reducing the impact the proposed building will have on that building.

The Office of Planning concludes that the applicant has satisfactorily met the criteria for special exception relief of Section 411.11 and that in granting the relief, the intent and purpose of the chapter "shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely."

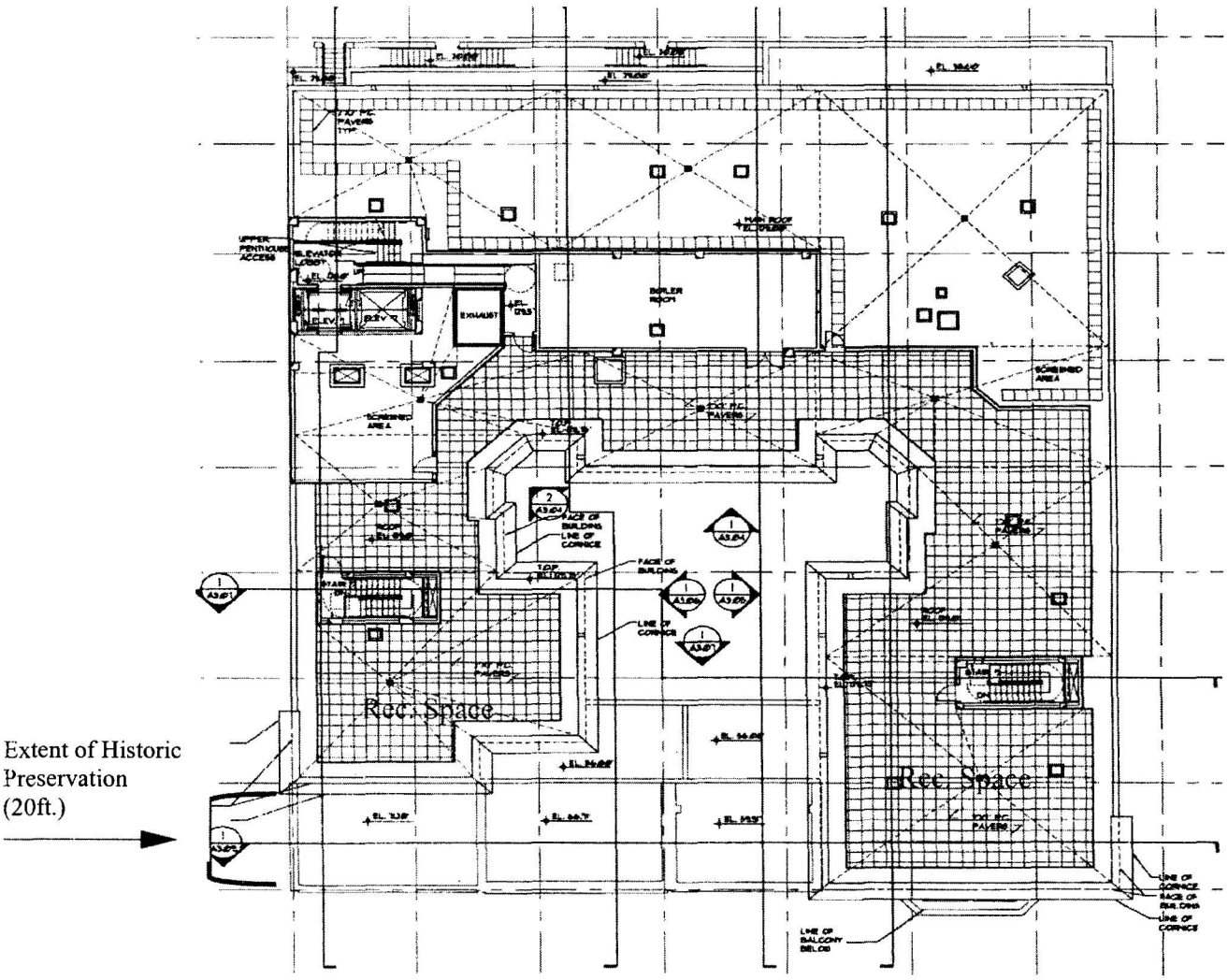


Figure 1 - Penthouse and Roof Plans

RELIEF REQUESTED:

Variance to Section 773.1 Dimension Requirement for Residential Recreation Space

§ 773.7 of the Zoning Regulations states:

> If any portion of a roof structure is to be used for residential recreation space, the roof area shall have no dimension less than twenty-five feet (25 ft.).

The proposed roof deck is approximately 5,460 square feet. It is irregularly shaped since it mimics the shape of the internal courtyard of the building and is impacted by the 20-foot setback from the historic facades. Therefore, the minimum dimension is not 25 feet in all sections of the deck area. The required placement of the primary roof structure and the two stair enclosures contribute to creating an exceptional condition on the roof of the building.

A strict application of the Zoning Regulations would impose a practical difficulty based on this exceptional condition. Based on submitted plans, the roof deck cannot achieve the twenty-five foot dimension in the entirety of the proposed recreation area. Moreover, the placement of the

roof structures, including the primary penthouse and boiler, is dictated by the internal layout of the building and therefore creates a situation in which the twenty-five foot dimension requirement cannot be met in all areas of the deck.

The variance from the dimensional requirement for residential recreation space can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The proposed residential recreation space including the party room, fitness center, lounge, outdoor courtyard and roof deck comply with the Zoning Regulations, and the roof deck constitutes meaningful recreation space, despite its reduced dimensions.

COMMUNITY COMMENTS

ANC 2C considered the project at their meeting of June 4, 2003, and by a vote of 4 to 0, supported the variance request for the recreation space dimension and the special exception from the roof structure setback and single enclosure requirements.

RECOMMENDATION

The Office of Planning has reviewed the application in terms of the property's zoning, the intensity of use, and the standards for special exception and variances. OP concludes that the special exception and requested variance meet the required tests and can be granted "without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map."

The Office of Planning recommends approval of the following:

1) **Special exception relief pursuant to §411.11 of Title 11 DCMR** from the strict application of the roof structure requirements; and
2) **A variance to §773 of Title 11 DCMR,** dimension of residential recreation space.

AA/kt